

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 05-0720V

Filed: 16 June 2010

* * * * *
ROBERTO GARCIA,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.
* * * * *

* Attorneys' Fees and Costs;
* Amount to which Respondent does not object
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Ronald Craig Homer, Esq., Conway, Homer & Chin-Caplan, Boston, Massachusetts, for Petitioner;
Linda Sara Renzi, Esq., United States Department of Justice, Washington, District of Columbia, for Respondent.

UNPUBLISHED DECISION ON ATTORNEYS' FEES AND COSTS¹

On 5 July 2005, Petitioner brought a petition under the National Childhood Vaccine Injury Act of 1986 ("Vaccine Act" or "Act"). On 12 November 2008, the Court ruled that Petitioner is entitled to compensation. On 16 June 2010, the Court filed a Decision on the Petition, based on the Proffer and Acceptance of the parties. Earlier, during the pendency of the litigation, Petitioner filed an application for interim attorneys' fees and costs, pursuant to the Federal Circuit's dictum in *Avera v. Secretary of HHS*, 515 F. 3d 1343 (Fed. Cir. 2008), and the Court awarded interim fees on 16 September 2008. When this matter had all but been concluded, Petitioner moved the Court on 11 May 2010 for an award of the remaining attorneys' fees and costs appurtenant to this Petition. After informally discussing same with Respondent, Petitioner reduced his demand to a sum that Respondent would find unobjectionable.

Petitioner's Amended Application for Attorneys' Fees and Costs, then, claims \$12,716.70 in attorneys' fees and \$12,487.44 in costs (of which \$0.00 are costs due to Petitioner directly²), amounts to which Respondent did not object.

¹ Petitioners are reminded that, pursuant to 42 U.S.C. § 300aa-12(d)(4) and Vaccine Rule 18(b)(2), they may seek the redaction of material in this decision that "would constitute a clearly unwarranted invasion of privacy."

² See Note 1 of Petitioner's initial Application for final attorneys' fees and costs, as well as Petitioner and Counsel Statement, filed 11 May 2010, in compliance with the requirement of General Order # 9.

Based on a review of this case and hearing no objection from Respondent, the Court finds nothing unreasonable in the claim for \$25,204.14. Therefore, in the absence of a motion for review filed in accordance with RCFC Appendix B, the clerk of the court is directed to enter judgment in favor of Petitioner in the amount of \$25,204.14 for reasonable attorney fees and costs.

Hence, **a check for \$25,204.14 shall be paid to Petitioner and Petitioner's counsel jointly.**

The amounts paid here, combined with the Court's Decision on Interim Attorneys' Fees and Costs, are intended to cover all legal expenses and encompass all charges by the attorney against a client including "advanced costs" as well as fees for legal services rendered. An attorney may not charge or collect fees or costs in addition to the amount awarded herein. See 42 U.S.C. § 300aa-15(e)(3); *Beck v. Secretary of HHS*, 924 F.2d 1029 (Fed. Cir. 1991).

IT IS SO ORDERED.

s/ Richard B. Abell

Richard B. Abell

Special Master